IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 970 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KETANBHAI JAYANTILAL TRIVEDI

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 970 of 2003

MR PM VYAS for Petitioner No. 1-3

MR HIREN P VYAS for Petitioner No. 1,2,3

MS SEJAL H VYAS for Petitioner No. 1,2,3

MR LR PUJARI, APP for Respondent No. 1

MR UDAYAN P VYAS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 03/12/2003

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. L.R. Pujari, Ld. APP for respondent no. 1 and Mr. Udayan Vyas, learned advocate for respondent no. 2.

2. This petition is filed under the provisions of section 482 of the Code of Criminal Procedure (for short 'the Code') seeking a prayer that proceeding of Criminal Case No. 2931 of 2001 pending in the Court of Ld. Metropolitan Magistrate, Court No. 7, Ahmedabad, be quashed.

2.1. It appears that present respondent no. 2 has filed a criminal complaint against the petitioners alleging that the petitioner no. 1 being her husband was causing her mental as well as physical harassment by making perverse demands. The Ld. Magistrate, on the said complaint, had ordered investigation u/S. 156(3) of the Code.

2.2. It further appears that the dispute prevailing between the husband and wife has ultimately culminated into a decree of divorce passed u/S. 13(B) of the Hindu marriage Act on 11th August, 2003. It further appears that the decree of divorce has pacified the parties and in particular respondent no. 2. She has, therefore, filed an affidavit wherein she has stated that because of certain adverse circumstances which had disturbed her life, she had taken a hasty step and filed a criminal complaint against the present petitioners. However, whatever the difference of opinion and disputes which were prevailing between herself and the petitioner no. 1 have been amicably settled. She has, therefore, stated that she had no objection if the proceedings filed against the present petitioners be quashed.

3. In light of the fact that the disputes prevailing between the petitioner no. 1 and respondent no. 2 have come to an end and both of them are now free to choose their own way of life, there is no point in allowing the trial of Criminal Case No. 2931 of 2001 pending against the present petitioners to go on. Even if it is permitted to go on in view of the settlement that has been arrived at between the parties, it is bound to result into acquittal. The trial, therefore, will be nothing but an exercise in futility. Further the Apex Court in the judgment rendered in the case of B.S. Joshi v/s. State of Haryana reported in AIR 2003 S.C. at page 1386 has said that in such circumstances it is not proper for the High Court to refuse exercise of powers u/S. 482 of the Code.

4. In view of the above, the proceedings of Criminal Case No. 2931 of 2001 pending before the Ld. Metropolitan Magistrate, Court No. 7, Ahmedabad are required to be quashed and they are hereby ordered to be quashed. The petition is allowed. Rule made absolute.

[AKSHAY H. MEHTA, J.]

* Pansala.